

Chapter DHS 148

CANCER AND CHRONIC DISEASE DRUG REPOSITORY PROGRAM

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Note: Chapter HFS 148 was renumbered chapter DHS 148 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 148.01 Authority and purpose. This chapter is promulgated under the authority of s. 255.056, Stats., to establish and maintain a cancer and chronic diseases drug repository program under which unused cancer and chronic disease drugs and cancer and chronic disease supplies may be donated and dispensed to individuals who are diagnosed with cancer or chronic disease.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. Register July 2006 No. 607, eff. 8-1-06.

DHS 148.02 Applicability. (1) This chapter applies to the department and any person who donates, receives, dispenses or otherwise participates or wishes to participate in the cancer and chronic diseases drug repository program.

(2) Over-the-counter medications and supplies not used to administer cancer and chronic disease drugs such as bandages or drainage bags are not subject to the provisions of this chapter. Accepting such items is at the discretion of the individual pharmacy or medical facility.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. Register July 2006 No. 607, eff. 8-1-06.

DHS 148.03 Definitions. In this chapter:

(1) "Cancer or chronic disease drug" or "drug" means a prescription drug that is used to treat any one of the following:

(a) Cancer or chronic disease or side effects of cancer or chronic disease.

(b) The side effects of any prescription drug under par. (a).

(2) "Cancer or chronic diseases drug repository" means a medical facility or pharmacy that has notified the department of its election to participate in the cancer or chronic diseases drug repository program.

(3) "Cancer or chronic diseases supply" or "supplies" means prescription and non-prescription supplies needed to administer a cancer or chronic disease drug.

(3m) "Chronic disease" has the meaning under s. 255.056 (1) (am), Stats.

(4) "Department" means the Wisconsin department of health services.

(5) "Dispense" has the meaning given in s. 450.01 (7), Stats.

(6) "Distribute" has the meaning given in s. 450.01 (8), Stats.

(7) "Distributor" has the meaning given in s. 450.01 (9), Stats.

(8) "Manufacturer" has the meaning given in s. 450.01 (12), Stats.

(9) "Medical facility" has the meaning given in s. 943.145 (1), Stats.

(10) "Pharmacist" has the meaning given in s. 450.01 (15), Stats.

(11) "Pharmacy" means a pharmacy that is licensed under s. 450.06, Stats.

(12) "Prescription drug" has the meaning given in s. 450.01 (20), Stats.

(13) "Side effects of cancer or chronic disease" means symptoms of cancer or chronic disease.

(14) "Single-unit-dose packaging" means a single-unit container for articles intended for administration as a single dose, direct from the container.

(14m) "Supplies" has the meaning under s. 255.056 (1) (h), Stats.

(15) "Tamper-evident unit dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. (1) to (3) and (13), cr. (3m) and (14m) Register July 2006 No. 607, eff. 8-1-06; correction in (4) made under s. 13.92 (4) (b) 6., Stats., Register January 2009 No. 637.

DHS 148.04 Requirements for participation by pharmacies and medical facilities. (1) **ELIGIBILITY.** To be eligible for participation in the cancer or chronic disease drug repository program a pharmacy or medical facility shall be in compliance with all applicable federal and state laws, and administrative rules.

(2) **NOTICE OF PARTICIPATION.** (a) Participation in the cancer or chronic disease drug repository program is voluntary. A pharmacy or medical facility may elect to participate in the cancer or chronic disease drug repository program by providing written notification to the department of all of the following:

1. The name, street address, and telephone number of the pharmacy or medical facility.

2. The name and telephone number of a pharmacist or another contact as determined by the pharmacist who is employed by or under contract with the pharmacy or medical facility.

3. A statement indicating that the pharmacy or medical facility meets the eligibility requirements under sub. (1), and the chosen level of participation described in par. (b).

(b) A pharmacy or medical facility may fully participate in the cancer or chronic disease drug repository program by accepting, storing, and dispensing donated drugs and supplies, or may limit its participation to only accepting and storing donated drugs and supplies. If a pharmacy or facility chooses to limit its participation, the pharmacy or facility shall distribute any donated drugs to a fully participating cancer or chronic disease drug repository following the requirements under s. DHS 148.09.

Note: Notices of participation in the cancer or chronic disease drug repository program can be sent to the Department of Health Services, Bureau of Quality Assurance, 1 West Wilson St., Madison, WI 53701.

(3) **WITHDRAWAL FROM PARTICIPATION.** A pharmacy or medical facility may withdraw from participation in the cancer or chronic disease drug repository program at any time upon written notice to the department.

Note: A notice to withdraw participation from the cancer or chronic disease drug repository program should be sent to the Department of Health Services, Bureau of Quality Assurance, 1 West Wilson St., Madison, WI 53701.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. (1), (2) (a) (intro.), (b), (3) Register July 2006 No. 607, eff. 8-1-06.

DHS 148.05 Recipient eligibility requirements. Any Wisconsin resident who is diagnosed with cancer or chronic disease is eligible to receive drugs or supplies under the cancer and chronic diseases drug repository program.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. Register July 2006 No. 607, eff. 8-1-06.

DHS 148.06 Donations of cancer or chronic disease drugs and supplies. (1) PERSONS ELIGIBLE TO DONATE DRUGS OR SUPPLIES. Any one of the following persons may donate legally obtained cancer or chronic disease drugs or supplies to a cancer drug repository, if the drugs or supplies meet the requirements under sub. (2), as determined by a pharmacist who is employed by or under contract with a cancer and chronic diseases drug repository:

- (a) An individual who is 18 years old or older.
- (b) A pharmacy, medical facility, manufacturer, or distributor, if the donated drugs have not been previously dispensed or administered.

(2) DRUGS AND SUPPLIES ELIGIBLE FOR DONATION. (a) *Cancer and chronic disease drugs.* A cancer or chronic disease drug is eligible for donation under the cancer and chronic diseases drug repository program only if all of the following requirements are met:

1. The donation is accompanied by a completed cancer and chronic diseases drug repository donor form that is signed by the person making the donation or that person's authorized representative.
2. The drug's expiration date is at least 6 months later than the date that the drug was donated.
3. The drug is in its original, unopened, tamper-evident unit dose packaging that includes the drug's lot number and expiration date. Single-unit dose drugs may be accepted if the single-unit-dose packaging is unopened.
4. The drug is not adulterated or misbranded.

(b) *Cancer and chronic disease supplies.* Cancer and chronic disease supplies are eligible for donation under the cancer and chronic diseases drug repository program only if the supplies meet all of the following requirements:

1. The supplies are not adulterated or misbranded.
2. The supplies are in their original, unopened, sealed packaging.
3. The supplies are accompanied by a completed cancer and chronic diseases drug repository donor form that is signed by the person making the donation or that person's authorized representative.

Note: Cancer and chronic diseases drug repository donor forms can be obtained from the Department's website at <http://www.dhs.wisconsin.gov/forms>.

(3) DRUGS AND SUPPLIES NOT ELIGIBLE FOR DONATION. All of the following drugs are ineligible for donation or acceptance under the cancer and chronic diseases drug repository program:

- (a) Controlled substances.
- (b) Drugs and supplies that do not meet the criteria under sub. (2).

(4) LOCATIONS WHERE DONATIONS MAY BE MADE. Drugs and supplies may be donated on the premises of a cancer and chronic diseases drug repository to a person designated by the repository. A drop box may not be used to deliver or accept donations.

(5) STORAGE. Cancer and chronic disease drugs and supplies donated under the cancer and chronic diseases drug repository program shall be stored in a secure storage area under environmental conditions appropriate for the drugs or supplies being

stored. Donated drugs and supplies may not be stored with non-donated inventory.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am., (1), (2) (a) (intro.), (a) 1., (b) (intro.), (b) 3., (3) (intro.), (4) and (5) Register July 2006 No. 607, eff. 8-1-06.

DHS 148.07 Dispensing requirements. (1) Drugs and supplies shall be dispensed by a licensed pharmacist consistent with the requirements in s. 450.11, Stats., and ch. Phar 7.

(2) The pharmacist shall inspect cancer and chronic disease drugs and supplies for adulteration, misbranding, and the date of expiration before dispensing. Drugs or supplies that are expired, adulterated, or misbranded may not be dispensed.

(3) Before a cancer or chronic disease drug or supply may be dispensed to a recipient, the recipient shall sign a cancer and chronic disease drug repository recipient form and shall be orally notified that the drug or supply may have been previously dispensed.

(4) Drugs and supplies shall be dispensed only to recipients who meet the eligibility requirements in s. DHS 148.05, in the following order of priority:

- (a) Individuals who are uninsured.
- (b) Individuals who receive or are eligible to receive Medicaid, Medicare, or other government based health care.
- (c) All other individuals who are otherwise eligible under s. DHS 148.05 to receive drugs or supplies from a cancer and chronic disease drug repository.

Note: Cancer and chronic disease drug repository recipient forms can be obtained from the Department's website at <http://www.dhs.wisconsin.gov/forms>.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. (2), (3) (4) (c) Register July 2006 No. 607, eff. 8-1-06.

DHS 148.08 Handling fees. A cancer and chronic disease drug repository may charge the recipient of a drug or supply a handling fee of no more than 300% of the Medicaid dispensing fee for each cancer or chronic disease drug or supply dispensed.

Note: The Medicaid dispensing fee can be found in the Wisconsin Medicaid Pharmacy Handbook, which can be obtained from the Department's website at <http://www.dhs.wisconsin.gov/Medicaid2/handbooks/pharmacy/index.htm>.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. Register July 2006 No. 607, eff. 8-1-06.

DHS 148.09 Distribution of donated cancer or chronic disease drugs and supplies. (1) Cancer and chronic disease drug repositories may distribute drugs and supplies donated under the cancer and chronic disease drug repository program to other repositories if requested by a participating repository.

(2) A cancer and chronic disease drug repository that has elected not to dispense donated drugs or supplies shall distribute those drugs and supplies to a participating repository upon request of the repository.

(3) If a cancer and chronic disease drug repository distributes drugs or supplies under sub. (1) or (2), the repository shall complete a cancer and chronic disease drug repository donor form. The completed form and a copy of the donor form that was completed by the original donor under s. DHS 148.06 (2) (a) 1. shall be provided to the fully participating cancer and chronic disease drug repository at the time of distribution.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. Register July 2006 No. 607, eff. 8-1-06.

DHS 148.10 Sale of donated drugs or supplies. Donated drugs and supplies may not be sold.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05.

DHS 148.11 Recordkeeping requirements. (1) DONOR AND RECIPIENT FORMS. Cancer and chronic diseases drug repository donor and recipient forms shall be maintained for at least 5 years.

(2) DESTRUCTION OF DONATED DRUGS OR SUPPLIES. A record of destruction of donated drugs and supplies that are not dispensed

under s. DHS 148.07 shall be maintained by the dispensing repository for at least 5 years. For each drug or supply destroyed, the record shall include all of the following information:

- (a) The date of destruction.
- (b) The name, strength and quantity of the cancer or chronic disease drug destroyed.
- (c) The name of the person or firm that destroyed the drug.
- (d) The source of the drugs or supplies destroyed.

History: CR 04-142: cr. Register June 2005 No. 594, eff. 7-1-05; CR 06-018: am. (1) and (2) (b) Register July 2006 No. 607, eff. 8-1-06.